

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Group Art Unit unknown

In re

Continuation of  
Patent Application No.  
09/828,018

Patent Application of  
Robert Lawrence Prosise, et al.

Filed: April 6, 2001

Examiner: Not Yet Assigned

“READY-TO-EAT NUTRITIONALLY  
BALANCED FOOD COMPOSITIONS  
HAVING SUPERIOR TASTE SYSTEMS”

INFORMATION DISCLOSURE STATEMENT  
PURSUANT TO 37 CFR §1.97(b)

Commissioner for Patents  
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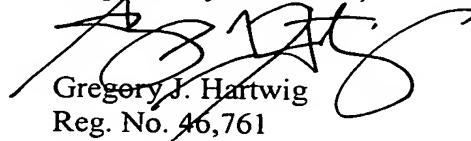
Sir:

The Examiner's attention is directed to the references which are listed on the attached Form PTO/SB/08A and/or PTO/SB/08B, copies of which are not being provided herewith because, pursuant to 37 C.F.R. §1.98(d), copies were previously submitted to, or cited by, the office in U.S. Serial No. 09/828,018, filed April 6, 2001, which is being relied upon for an earlier filing date under 35 U.S.C. §120.

Citation of these references is respectfully requested.

No concession is made that these documents are prior art, and Applicant expressly reserves the right to antedate the documents as may be appropriate.

Respectfully submitted,

  
Gregory J. Hartwig  
Reg. No. 46,761

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<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> (use as many sheets as necessary)	Substitute for form 1449A/PTO		<b>COMPLETE IF KNOWN</b>	
			Application Number	09/828,018
			Confirmation Number	6388
			Filing Date	April 6, 2001
			First Named Inventor	Prosise, et al.
			Group Art Unit	1761
			Examiner Name	Unknown
			Attorney Docket Number	8038M
SHEET 1 of 2				

**U. S. PATENT DOCUMENTS**

EXAMINER INITIALS*	Cite No. <sup>1</sup>	DOCUMENT NUMBER Number - Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
		3,751,569	09/07/1973	Erickson	
		4,112,123	09/05/1978	Roberts	
		4,338,346	07/06/1982	Brand	
		4,399,163	08/16/1983	Brennan, et al.	
		4,423,029	12/27/1983	Rizzi	
		4,411,925	10/25/1983	Brennan, et al.	
		4,668,525	05/26/1987	Creswick	
		4,680,193	07/14/1987	Lunder, et al.	
		4,935,256	06/19/1990	Tsai	
		5,132,113	07/21/1992	Luca	
		5,242,697	09/07/1993	Luca	
		5,643,623	07/01/1997	Schmitz, et al.	
		5,834,044	11/10/1998	Schmitz, et al.	
		5,879,733	03/09/1999	Ekanayake, et al.	
		6,207,203	03/27/2001	Atkinson, et al.	

**FOREIGN PATENT DOCUMENTS**

EXAMINER INITIALS*	Cite No. <sup>1</sup>	FOREIGN PATENT DOCUMENT Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		WO 99/12030	03/11/1999	Foley, et al.		

**OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS**

EXAMINER INITIALS*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T <sup>6</sup>
		Pennington, J., Bowes & Church's Food Values of Portions Commonly Used, 17th edition, 1998, Lippincott, Philadelphia).	
		Adam Drewnowski, <i>Trends in Food Science &amp; Technology</i> , April, 1992	
		FDA Labeling Rules as contained in 21 CFR § 101.12	
		Troller, J.A. 1980, Influence of Water Activity on Microorganisms in Foods, <i>Food Technology</i> , 34:76-80	
		Lemon, P. (1998) Effects of exercise on dietary protein requirements, <i>International Journal of Sport Nutrition</i> , 8:426-447.	
		Crouse, J.R. et al., <i>Arch Intern Med</i> , 1999, 159:2070-2076 (Pike, R.L. and Brown, M.L., 1975, <i>Nutrition: An Integrated Approach</i> , 2nd ed., Wiley, New York).	
		Garrison, R. and Somer, E., <i>The Nutrition Desk Reference</i> , 3rd edition, 1995, Keats Publishing, New Cannan, CT).	
		The Surgeon General's Report on Nutrition and Health, 1988, U.S. Department of Health and Human Services Publication No. 88-50210, Washington, DC;	
		National Research Council, 1989, <i>Diet and Health: Implications for Reducing Chronic Disease Risk</i> , The Committee on Diet and Health, National Academy Press, Washington, DC).	
		Glueck, C. J., Jandacek, R. J., Hogg, E., Allen, C., Baehler, L., and Tewksbury, M. (1983) Sucrose polyester: substitution for dietary fats in hypocaloric diets in the treatment of familial hypercholesterolemia. <i>Am. J. Clin. Nutr.</i> 37, 347-354) and plant sterols and plant sterol esters	
		Mattson, F.H., Grundy, S.M., and Crouse, J.R. (1982) Optimizing the effect of plant sterols on cholesterol absorption in man. <i>Am. J. Clin. Nutr.</i> 35, 697-700; U.S. Patent 3,751,569, B. A. Erickson	
		Westrate, J.A., and Meijer, G. W. (1998) Plant sterol-enriched margarines and reduction of plasma total- and LDL-cholesterol concentrations in normocholesterolemic and mildly hypercholesterolemic subjects. <i>Eur. J. Clin. Nutr.</i> 52, 334-343).	

## COPENDING APPLICATIONS

Entire copies of all co-pending applications (or the portion of the application and claims that caused it to be cited) must be sent with the IDS (see 37 CFR 1.98(a)(2)(iii))

<u>Atty. Docket No.</u>	<u>Serial Number</u>	<u>Inventor(s)</u>	<u>Filing Date</u>
8004M	09/813,251	Wong, et al.	March 20, 2001
8005M	09/813,254	Wong, et al.	March 20, 2001
8036M	09/828,016	Prosise, et al.	April 6, 2001
8037M	09/827,863	Prosise, et al.	April 6, 2001
8039M	09/827,802	Prosise, et al.	April 6, 2001
8040M	09/828,015	Prosise, et al.	April 6, 2001
8041M	09/827,436	Prosise, et al.	April 6, 2001
8043M	09/827,834	Kester, et al.	April 6, 2001

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Substitute of form 1449/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	09/828,018
				Filing Date	April 6, 2001
				First Name Inventor	Robert Lawrence Prorise
				Group Art Unit	1761
				Examiner Name	Pratt, Helen F.
Sheet	1	of	1	Attorney Docket Number	066544-9006-00

U.S. PATENT DOCUMENTS				
Examiner Initials		U.S. Patent Document Number	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document
		5061508	Schur	10/29/1991
		5051270	Narichika et al.	9/24/1991
		5262190	Cunningham et al.	11/16/1993
		5490999	Villagran et al.	2/13/1996
		4832971	Michnowski	5/23/1989
		4789664	Seligson et al.	12/6/1988
		4005195	Jandacek	1/25/1977

FOREIGN PATENT DOCUMENTS						
Examiner Initials		Country Code	Foreign Patent Document Number	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document	Translation English Abstract
		EP	0 434 025	Jacobs Suchard AG	6/26/1991	X
		EP	0 588 600	Kernels Foods Plc	3/23/1994	
		WO	98/13056	Industrial Research Limited	4/2/1998	
		WO	99/08546	Barkley Seed Inc.	2/25/1999	
		GB	2178637 A	D & S (Food Products) Limited	6/22/1985	

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Substitute for form 1449B/PTO			<b>Complete if Known</b>	
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)			Application Number	09/828,018
			Filing Date	April 6, 2001
			First Named Inventor	Robert Lawrence Prosisie
			Group Art Unit	1761
			Examiner Name	Pratt, Helen F.
			Attorney Docket Number	066544-9006-00
Sheet	1	of	1	

**OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS**

Examiner Initials		Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc. ), date, pages(s), volume-issue numbers(s), publisher, city and/or country where published.
		BACKER, T., Multifunktioneller FullstoffEine Weizenfaser Schafft Neue Moglichkeiten, Lebensmitteltechink, 1996, pgs. 58-59, Vol. 28, No. 5 Hamburg, Germany.
		AKOH, C. C., Fat Replacers A Publication of The Institute of Food Technologists Expert Panel on Food Safety and Nutrition, March 1, 1998, pages 47-53, Vol., 52 No. 3, Institute of Food Technologists, Chicago.
		BOLLINGER, H., Wheat Fibre - A New Generation of Dietary Fibres, September 1, 1996, pgs. 34, 36, 38, Vol. 3, No. 3, Food Tech Europe.
		BRAATEN, J., et al., High Beta-Glucan Oat Bran and Oat Gum Reduce Postprandial Blood Glucose and Insulin in Subject with and without Type 2 Diabetes, 1994, pgs. 312-318, Vol. 11, Diabetic Medicine, John Wiley & Sons, Ltd.
		GERSHOFF, S. N., Nutrition Evaluation of Dietary Fat Substitutes, Nutrition Reviews, pgs. 305-313, Vol. 53, No. 11, Nutrition Review Nov. 1995 Tufts University School of Nutr. Science and Policy, Medford, MA.
		GIESE, J., Olestra: Properties, Regulatory Concerns and Applications, March 1996, pgs. 130-131, Vol. 50, No. 3, Food Technology, Institute of Food Technologists, Chicago, IL.
		TAPPY, L., et al., Effects of Breakfast Cereals Containing Various Amounts of Beta-Glucan Fibers on Plasma Glucose and Insulin Response in NIDDM Subjects, August 1996, pgs. 831-834, Vol. 19, No. 8, Diabetes Care, American Diabetes Association, Alexandria, VA.
		YOKOYAMA, W.H., et al., Raw and Processed Oat Ingredients Lower Plasma Cholesterol in Hamster, 1998, pgs. 713-715, Vol. 63, No. 4., Journal of Food Science.
		FDA, Food Labeling: Health Claims, Oats and CHD; Abst. No. 1997:78131; Fed. Register 62(15) 3584-3601; 23 Jan 1997.

Examiner Signature		Date Considered	
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	Smith et al., "Overview of Salatrim, a Family of Low-Calorie Fats", J. Agric. Food Chem., 42:432-434, (1994)	
	Sofly et al., "Composition of Representative Salatrim Fat Preparations", J. Agric. Food Chem., 42:461-467, (1994).	
	Code of Federal Regulations; 21 CFR § 101.9	
	Brown, L. et al., <i>Am J Clin Nutr</i> , 1999, 69:30-42).	
	Anderson, J.W. and Akanji, A.O., 1993, in CRC Handbook of Dietary Fiber in Human Nutrition, 2nd edition, G.A. Spiller, ed., CRC Press	
	Bruns, <i>Biochem. Pharmacol.</i> , 30, 325-333, (1981)	
	Food and Nutrition Board of the National Academy of Sciences (Food and Nutrition Board, 1989, <i>Recommended Dietary Allowances</i> , 10 ed., National Research Council, National Academy of Sciences, Washington, DC	
	Food and Nutrition Board, 1989; Gregory, J.F., 1996, "Vitamins", in <i>Food Chemistry</i> , 3 <sup>rd</sup> ed., O.R. Fennema, ed.	
	Introduction To Statistics by Ronald E. Walpole, 3rd Edition (1982) New York, New York. pages 24 and 35 of Chapter 2 and page 258 of Chapter 9	
	Raising the Health and Energy Bar, Food Product Design, James C. Burg (Technical Ed.), July 1998	
	Dietary Fiber: A Healthy Discussion, Food Product Design, Ronald C. Deis, Ph.D., January 1999.	
	Functional Foods: Figuring out the Facts, Food Product Design, Andrea Platzman (Contributing Ed.), November 1999.	
	Bar Talk, Food Product Design, Lisa Kobs (Contributing Ed.), September 1999.	
EXAMINER		DATE CONSIDERED

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<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kind Codes of U.S. Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

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**Notice of References Cited**

Application/Control No.

09/828,018

Applicant(s)/Patent Under  
Reexamination  
PROSISE ET AL.

Examiner

Helen F. Pratt

Art Unit

1761

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-002/0037355A1	03-2002	Wong et al.	426/633
	B	US-4,900,566	02-1990	Howard	426/72
	C	US-4,859,475	08-1989	Michnowski	426/72
	D	US-			
	E	US-			
	F	US-			
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	I	US-			
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	N					
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**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
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